

ORDINANCE NO. _____

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 24, ZONING, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE II, SPECIAL REGULATIONS, DIVISION 1, IN GENERAL, BY ADDING SECTION 24-46, SOIL STOCKPILING.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 24, Zoning, is hereby amended and reordained by amending Article II, Special Regulations, Division 1, In General, by adding Section 24-46, Soil stockpiling.

Chapter 24

ARTICLE II. SPECIAL REGULATIONS

DIVISION 1. IN GENERAL

Sec. 24-46. Soil stockpiling.

(a) Applicability. When soil is placed on a parcel of land for the purpose of storage, whether temporary or long-term, and the deposits of soil cover a total cumulative land area exceeding 2,500 square feet, or the deposit exceeds eight feet from the natural grade at its maximum height, then the activity shall be considered a “soil stockpile” and shall be subject to the permitting and performance standards set forth in this section. However, the following specific activities shall not be considered “soil stockpiling.”

(1) Placement of soil on a site for the purpose of changing the natural grade, such as filling low spots, improving drainage, or improving the suitability of the site for building;

(2) Placement of soil for temporary storage purposes at depths greater than one foot, covering a cumulative area of less than 2,500 square feet, and when all of the following conditions are met:

- a. the soil deposit is not mounded higher than eight feet above the natural existing grade;*
- b. the soil deposit are no closer to any property line than the minimum principal building setback for the district in which the parcel is located;*
- c. the soil deposit does not block, encroach on or otherwise adversely affect stormwater drainage;*
- d. the soil deposit is not within the drip-line of any tree on or abutting the site; and*
- e. the soil deposit is removed from the site, or distributed and graded across the site to depths of less than one foot, within one year.*

(3) Placement of soil associated with agricultural or mining activities on the site.

Any and all of the activities listed above shall be required to comply with all federal, state and local permit requirements including county and state erosion and sediment control, Chesapeake Bay preservation area, floodplain and Virginia stormwater management permit regulations.

(b) Prohibited materials. Nothing herein shall be construed to allow the creation of stockpiles containing anything other than clean soil, including, but not limited to, the following specifically prohibited materials:

(1) stockpiles of any waste material, including: commercial/business waste; construction, clearing and/or demolition waste; garbage or trash; hazardous waste; household waste; industrial waste; institutional/governmental waste; solid waste; or, unacceptable waste as defined in chapter 24 of the county code;

(2) stockpiles of sand, gravel, stone, felled forestal debris, wood chips/mulch or similar materials.

(c) Effects of other zoning districts. The standards established in section (e) below shall be required unless a more restrictive requirement is specifically stated in an individual zoning district, in which case the more restrictive standards shall apply.

(d) Development plans. The location, size and dimensions of all stockpiles shall be shown on any associated development plan and approved as part of a site plan or construction plan for a subdivision prior to development. At a minimum the plan shall include:

(1) A stockpile plan prepared in sufficient detail to demonstrate compliance with all applicable performance standards; and

(2) An operations plan information shall be included in the site plan submittal documents and shall contain the following information:

a. The date on which the operation will commence, the date on which the operation will be completed, the date that all required stabilization measures are to be completed, a statement as to the ultimate disposition of the stockpile and the length of time that the stockpile will remain on the site;

b. A statement listing the public streets and highways to be used to access the site and as haul routes;

c. The hours of operation each day and the days of operation during the week;

d. A general description of the type and quantity of equipment to be used in connection with the use;

e. Operating practices to be used to minimize noise, dust, air contaminants, and vibration including information on the treatment of access roads to eliminate dust and deposit of mud on public roads;

f. Methods for ensuring that oil, grease, or other contaminating materials from equipment maintenance are not deposited on the ground or within the confines of any drainageways.

(e) Performance standards. All soil stockpiling shall be subject to the following conditions:

(1) Location. All soil stockpiles shall be located on the same parcel within the proposed development in the area under construction.

(2) Setbacks.

a. Setback areas for soil stockpiles shall be:

i. Not less than 50 feet from any property line in any zoning district; and

ii. Not less than 100 feet from any existing off-site structure;

b. All existing trees, bushes, shrubs and other vegetation within such setback areas shall be protected and preserved during and after the stockpiling operation. The planning director may require the installation of trees or shrubs to help buffer the view of any stockpiles authorized on sites without sufficient screening.

(3) Access. Operation plan, as referenced in section 24-46 (d) (2), shall include access information required below at site plan submittal:

a. Local residential streets (i.e., those platted/created as a component of a recorded subdivision) shall not be used for access to the stockpile site. The developer shall be limited to using those routes specified in the application and approved by the county.

b. All on-site access roads and driveways shall be maintained to prevent the creation of dust and shall have an appropriate surface treatment to prevent the deposit of mud, debris or dust onto any public street.

c. Any access road shall be a minimum of 20 feet from any property line except at the point of access to any public right-of-way.

d. If determined necessary by the Virginia Department of Transportation (VDOT), the operator shall be required to post a letter of credit to VDOT in an amount sufficient to cover any potential damages to the public road system attributable to the operation.

(4) Hours of operation. The construction activity shall be conducted between local sunrise and sunset and shall have no Sunday operations, unless for necessary maintenance of equipment essential for public health and safety.

(5) The height of the soil stockpile shall be limited by the following design parameters:

a. One foot of stockpile height for every two feet of setback from any perimeter property line;

b. Side slopes shall not exceed three feet in width to one foot in height (3H:1V; horizontal: vertical);

c. The maximum height of any stockpile shall be 25 feet in a residential district and 40 feet in a commercial or industrial district. In a mixed-use area, the maximum height shall be determined based on the predominant land use designation on the master plan; and

d. No stockpile shall exceed the height of the treeline on or abutting the stockpile site. If no treeline is located on-site or adjacent to the site, or if vegetation consists of under-story growth or shrubs, the height of the stockpile shall not exceed 25 feet in height.

(6) Stockpiles shall be limited to a maximum term of two years. In the event the operator wishes to maintain the temporary soil stockpile beyond that term, he or she may apply to the development review committee (DRC) for a time extension.

(7) No stockpile shall be located within 150 feet of a community character corridor. If the parcel is less than 300 feet in depth, the location of the stockpile may be reduced to 75 feet from a front property line along a community character corridor.

(8) Elimination of noise, dust, and vibration.

a. All equipment used for the transportation or movement/grading of soil shall be constructed, maintained and operated in such a manner as to minimize any noise, dust or vibration which would be harmful or a nuisance to persons living in the vicinity of the stockpile.

b. All service roads or other non-vegetated open areas within the boundaries of the site shall be maintained to prevent dust or other windblown air pollutants. Proposed methods of dust control and equipment proposed for such control shall be included in the operations plan and shall be located at the site during operation.

c. Trucks shall not be loaded beyond design capacity, as defined in the department of motor vehicles size, weight and equipment requirements manual DMV-109, and loads shall be covered as required by state law to prevent hauled materials from being deposited or spilled during transport across any public or private land or property.

(9) The approved exterior limits of all areas where soil will be stockpiled shall be delineated with construction fencing and adequate tree protection measures shall be used, as determined by the engineering and resource protection director, prior to beginning operation.

(10) The following drainage requirements shall be met during the operation of the stockpile:

a. The site shall be graded to prevent standing water which would or could reasonably be expected to constitute a safety or health hazard; and

b. Existing drainage channels shall not be altered in such a way that water backs up onto adjoining properties or that the peak flow of water leaving the site exceeds the capacity of the downstream drainage channel.

(11) The operation shall at all times comply with the applicable provisions of the virginia erosion and sediment control handbook promulgated by the Virginia soil and water conservation board.

(12) Maintenance of equipment shall be conducted in such a fashion as to not allow the depositing of oil, grease, or other contaminating materials on the ground or into drainageways.

(f) Waivers.

(1) An applicant may request a waiver from the planning director from any of the provisions of section 24-46 (e) (1) through (7) above. The planning director shall only consider waivers that meet the following requirements:

a. Stockpiles shall not be visible from a community character corridor;

b. Stockpiles shall be screened from adjacent properties;

c. Stockpiles shall be located on a parcel that will have minimal impact on surrounding residential parcels, as determined by the DRC;

d. Stockpiles shall be located on a parcel that can be accessed without disruption to local residential streets, as determined by the DRC.

e. Stockpiles shall have no impacts to environmental inventory features as listed in section 23-10 (2) of the county Chesapeake Bay preservation ordinance.

(2) *Appeals. In the event the planning director disapproves the items specified in (f) above or recommends conditions or modifications that are unacceptable to the applicant, the applicant may appeal the decision of the planning director to the DRC which shall forward a recommendation to the planning commission.*

Secs. 24-47 - 24-51. Reserved.

John J. McGlennon
Chairman, Board of Supervisors

ATTEST:

Robert C. Middaugh
Clerk to the Board

	VOTES		
	<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>
MCGLENNON	_____	_____	_____
JONES	_____	_____	_____
KENNEDY	_____	_____	_____
ICENHOUR	_____	_____	_____

Adopted by the Board of Supervisors of James City County, Virginia, this 11th day of December, 2012.

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